



**STATE OF TENNESSEE
HEALTH SERVICES AND DEVELOPMENT AGENCY**

500 Deaderick Street
Suite 850
Nashville, Tennessee 37243
615/741-2364

**INSTRUCTIONS FOR FILING AN APPLICATION FOR
A CERTIFICATE OF NEED**

Please read the following instructions, the Rules and Regulations of the Agency, and Tennessee Code Annotated, §68-11-1601 *et seq.*, prior to preparation of this application.

DOCUMENTATION: In preparing this application, it is the applicant's responsibility to demonstrate through its answers that the project is necessary to provide needed health care in the area to be served, that it can be economically accomplished and maintained, and that it will contribute to the orderly development of adequate and effective health care facilities and/or services in this area. Consult Tennessee Code Annotated, §68-11-1601 *et seq.*, Health Services and Development Agency Rule 0720-4-.01, and the criteria and standards for certificate of need document Tennessee's Health: Guidelines for Growth, for the criteria for consideration for approval. Tennessee's Health: Guidelines for Growth is available from the Tennessee Health Services and Development Agency or from the Agency's website at www.tennessee.gov/HSDA. Picture of the Present is a document, which provides demographic, vital, and other statistics by county available from the Tennessee Department of Health, Bureau of Policy, Planning, and Assessment, Division of Health Statistics and can be accessed from the Department's website at www2.state.tn.us/health/statistics/HealthData/pubs_title.htm.

REVIEW CYCLES: A review cycle is no more than sixty (60) days. The review cycle begins on the first day of each month.

COMMUNICATIONS: All documents for filing an application for Certificate of Need with the Health Services and Development Agency must be received during normal business hours (8:00a.m. - 4:30p.m. Central Time) at the Agency office, located at 500 Deaderick Street, Suite 850, Nashville, TN 37243. For the purpose of filing Letters of Intent, application forms, and responses to supplemental information, the filing date is the actual date of receipt in the Agency office. These documents, as well as other required documents must be received as original, signed documents in the Agency office. Fax and e-mail transmissions **will not** be considered to be properly filed documentation. In the event that the last appropriate filing date falls on a Saturday, Sunday, or legal holiday, such filing should occur on the preceding business day. All documents are to be filed with the Agency in ***triplicate***.

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LETTER OF INTENT: Applications shall be commenced by the filing of a Letter of Intent. The Letter of Intent must be filed with the Agency between the first day and the tenth day of the month

COMMENTS

Public Comment

None

Staff Recommendation

Change Bureau of Informatics, Division of Information Resources to Bureau of Policy, Planning, and Assessment, Division of Health Statistics. **This change has been made.**

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prior to the beginning of the review cycle in which the application is to be considered. This allowable filing period is inclusive of both the first day and the tenth day of the month involved. The Letter of Intent must be filed in the form and format as set forth in the application packet.

Any Letter of Intent that fails to include all information requested in the Letter of Intent form, or is not timely filed, will be deemed void, and the applicant will be notified in writing. The Letter of Intent may be refiled but, if refiled, is subject to the same requirements as set out above.

PUBLICATION OF INTENT: Simultaneously with the filing of the Letter of Intent, the Publication of Intent should be published for one day in a newspaper of general circulation in the proposed service area of the project. The Publication of Intent must be in the form and format as set forth in the application packet. The Publication of Intent should be placed in the Legal Section in a space no smaller than four (4) column inches. Publication must occur between the first day and the tenth day of the month, inclusive.

1. A “newspaper of general circulation” means a publication regularly issued at least as frequently as once a week, having a third-class mailing privilege, includes a Legal Notice Section, being not fewer than four (4) pages, published continuously during the immediately preceding one-year period, which is published for the dissemination of news of general interest, and is circulated generally in the county in which it is published and in which notice is given.
2. In any county where a “newspaper of general circulation” does not exist, the Agency’s Executive Director is authorized to determine the appropriate publication to receive any required Letter of Intent. A newspaper which is engaged in the distribution of news of interest to a particular interest group or other limited group of citizens, is not a “newspaper of general circulation.”
3. In the case of an application for or by a home care organization, the Letter of Intent must be published in each county in which the agency will be licensed or in a regional newspaper which qualifies as a newspaper of general circulation in each county. In those cases where the Publication of Intent is published in more than one newspaper, the earliest date of publication shall be the date of publication for the purpose of determining competition deadlines and filing the application.

PROOF OF PUBLICATION: Documentation of publication must be filed with the application form. Please submit proof of publication with the application by attaching either the full page of the newspaper in which the notice appeared, with the ***mast and dateline intact***, or a publication affidavit from the newspaper.

SIMULTANEOUS REVIEW: Those persons desiring a simultaneous review for a Certificate of Need for which a Letter of Intent has been filed should file a Letter of Intent with the Agency and the original applicant (as well as any other applicant filing a simultaneous review), and should publish the Letter of Intent simultaneously in a newspaper of general circulation in the same county as the original applicant. The publication of the Letter of Intent by the applicant seeking simultaneous review must be published within ten (10) days after publication by the original applicant.

1. Only those applications filed in accordance with the rules of the Health Services and Development Agency, and upon consideration of the following factors as compared with the proposed project of the original applicant, may be regarded as applications filing for simultaneous review.
 - (A) Similarity of primary service area;
 - (B) Similarity of location;
 - (C) Similarity of facilities; and
 - (D) Similarity of service to be provided.
2. The Executive Director or his/her designee will determine whether applications are to be reviewed simultaneously, pursuant to Agency Rule 0720-3-.03(3).
3. If two (2) or more applications are requesting simultaneous review in accordance with the statute and rules and regulations of the Agency, and one or more of those applications is not deemed complete to enter the review cycle requested, the other applications(s) that is/are deemed complete shall enter the review cycle. The application(s) that is/are not deemed complete to enter the review cycle will not be considered as competing with the applications(s) deemed complete and entering the review cycle.

FILING THE APPLICATION: *All applications*, including applications requesting simultaneous review, must be filed in ***triplicate*** (original and two (2) copies) with the Agency within five (5) days after publication of the Letter of Intent. ***The date of filing is the actual date of receipt at the Agency office.***

Applications should have all pages numbered.

All attachments should be attached to the back of the application, be identified by the applicable item number of the application, and placed in alpha-numeric order consistent with the application form. For example, an Option to Lease a building should be identified as Attachment A.6., and placed before Financial Statements which should be identified as Attachment C. Economic Feasibility.6. The last page of an application should be the completed affidavit.

Failure by the applicant to file an application within five (5) days after publication of the Letter of Intent shall render the Letter of Intent, and hence the application, ***void***.

FILING FEE: The amount of the initial filing fee shall be an amount equal to \$2.25 per \$1,000 of the estimated project cost involved, but in no case shall the fee be less than \$3,000 or more than \$45,000. Checks should be made payable to the Health Services and Development Agency.

FILING FEES ARE NON-REFUNDABLE and must be received by the Agency before review of the application will begin.

REVIEW OF APPLICATIONS FOR COMPLETENESS: When the application is received at the Agency office, it will be reviewed for completeness. The application must be consistent with the information given in the Letter of Intent in terms of both project scope and project cost. ***Review for completeness will not begin prior to the receipt of the filing fee.***

1. If the application is deemed complete, the Agency will acknowledge receipt and notify the applicant as to when the review cycle will begin. "Deeming complete" means that all questions in the application have been answered and all appropriate documentation has been submitted in such a manner that the Health Services and Development Agency can

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understand the intent and supporting factors of the application. Deeming complete shall not be construed as validating the sufficiency of the information provided for the purposes of addressing the criteria under the applicable statutes, the Rules of the Health Services and Development Agency, or the standards set forth in the State Health Plan/Guidelines for Growth.

2. If the application is incomplete, requests by Agency staff for supplemental information must be completed by the applicant within sixty (60) days of the written request. Please note that supplemental information must be submitted timely for the application to be deemed complete prior to the beginning date of the review cycle which the applicant intends to enter, even if that time is less than the sixty (60) days which is allowed by the statute. If the requested information is submitted within sixty (60) days of the request, but not by the date specified in the staff's letter, the application is not void, but will enter the **next** review cycle. If an application is not deemed complete within sixty (60) days after the written notification is given by the Agency staff that the application is deemed incomplete, the application shall be deemed void. If the applicant decides to re-submit the application, the applicant shall comply with all procedures as set out by this part and a new filing fee shall accompany the refiled application.

Each supplemental question and its corresponding response shall be typed and submitted on a separate sheet of 8 1/2" x 11" paper, be filed in **triplicate**, and include a signed affidavit. All requested supplemental information must be received by the Agency to allow staff sufficient time for review before the beginning of the review cycle in order to enter that review cycle.

3. Applications for a Certificate of Need, including competing applications, will not be considered unless filed with the Agency within such time as to assure such application is deemed complete.

All supplemental information shall be submitted simultaneously and only at the request of staff, with the only exception being letters of support and/or opposition.

The Agency will promptly forward a copy of each complete application to the Department of Health or the Department of Mental Health and Developmental Disabilities for review. The Department reviewing the application may contact the applicant to request additional information regarding the application. The applicant should respond to any reasonable request for additional information promptly.

AMENDMENTS OR CHANGES IN AN APPLICATION: An application for a Certificate of Need which has been deemed complete **CANNOT** be amended in a substantive way by the applicant during the review cycle. Clerical errors resulting in no substantive change may be corrected.

- * **WITHDRAWAL OF APPLICATIONS:** The applicant may withdraw an application at any time by providing written notification to the Agency.
- * **TIMETABLE FOR CERTIFICATE OF NEED EXPIRATION:** The Certificate of Need is valid for a period not to exceed three (3) years (for hospital projects) or two (2) years (for all other projects) from the date of its issuance and after such time shall expire; *however*, the Agency may extend a Certificate of Need for a reasonable period upon application and good cause shown, accompanied by a non-refundable filing fee, as prescribed by Rules. An extension cannot be issued to any applicant unless substantial progress has been demonstrated. A Certificate of Need which has been extended shall expire at the end of the extended time period. The decision whether to grant such an extension is within the sole discretion of the Agency, and is not subject to review, reconsideration, or appeal.

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- * For further information concerning the Certificate of Need process, please call the offices of the Health Services and Development Agency at 615/741-2364.
- * For information concerning the Joint Annual Reports of Hospitals, Nursing Homes, Home Care Organizations, or Ambulatory Surgical Treatment Centers, call the Tennessee Department of Health, Office of Health Statistics and Research at 615/741-1954
- * For information concerning Guidelines for Growth call the Health Services and Development Agency at 615/741-2364. For information concerning Picture of the Present call the Department of Health, Office of Health Statistics at 615/741-9395.
- * For information concerning mental health and developmental disabilities applications call the Tennessee Department of Mental Health and Developmental Disabilities, Office of Policy and Planning at 615/532-6500.

SECTION A:**APPLICANT PROFILE**

Please enter all Section A responses on this form. All questions must be answered. If an item does not apply, please indicate "N/A". **Attach appropriate documentation as an Appendix at the end of the application and reference the applicable Item Number on the attachment.**

For Section A, Item 1, Facility Name **must be** applicant facility's name and address **must be** the site of the proposed project.

For Section A, Item 3, Attach a copy of the partnership agreement, or corporate charter **and** certificate of corporate existence, if applicable, from the Tennessee Secretary of State.

For Section A, Item 4, Describe the existing or proposed ownership structure of the applicant, including an ownership structure organizational chart. Explain the corporate structure and the manner in which all entities of the ownership structure relate to the applicant. As applicable, identify the members of the ownership entity and each member's percentage of ownership, for those members with 5% or more ownership interest. In addition, please document the financial interest of the applicant, and the applicant's parent company/owner in any other health care institution as defined in Tennessee Code Annotated, §68-11-1602 in Tennessee. At a minimum, please provide the name, address, current status of licensure/certification, and percentage of ownership for each health care institution identified.

For Section A, Item 5, For new facilities or existing facilities without a current management agreement, attach a copy of a draft management agreement that at least includes the anticipated scope of management services to be provided, the anticipated term of the agreement, and the anticipated management fee payment methodology and schedule. For facilities with existing management agreements, attach a copy of the fully executed final contract.

Please describe the management entity's experience in providing management services for the type of the facility, which is the same or similar to the applicant facility. Please describe the ownership structure of the management entity.

For Section A, Item 6, For applicants or applicant's parent company/owner that currently own the building/land for the project location; attach a copy of the title/deed. For applicants or applicant's parent company/owner that currently lease the building/land for the project location, attach a copy of the fully executed lease agreement. For projects where the location of the project has not been secured, attach a fully executed document including Option to Purchase Agreement, Option to Lease Agreement, or other appropriate documentation. Option to Purchase Agreements **must include** anticipated purchase price. Lease/Option to Lease Agreements **must include** the actual/anticipated term of the agreement **and** actual/anticipated lease expense. The legal interests described herein **must be valid** on the date of the Agency's consideration of the certificate of need application.

COMMENTS

Public Comment

Section A, Item 3-One commenter wrote that the Secretary of State does not require a partnership or operating agreement to form a partnership or a limited liability company and nor should the Health Services and Development Agency (“the HSDA”). A partnership or operating agreement may require substantial amounts of time and money to develop, and it should not be required before the certificate of need (“the CON”) application is considered because a denial of the CON application would negate the need for a partnership or operating agreement.

Another commenter wrote a Certificate of Existence issued by the Secretary of State should be declared sufficient documentation that the ownership corporation is a legitimate business in good standing. This approach removes the requirement for inclusion of a corporate charter in the application.

Another commenter wrote there may be no partnership agreement, corporate charter, or other documentation from the Tennessee Secretary of State that acknowledges and verifies the type of ownership as identified by the applicant. It may be a sole proprietorship or some other business entity not requiring formal filing. I suggest inserting, “if applicable” somewhere in the instruction. In addition this instruction appears to be better suited to Section A Item 4, not Item 3.

Staff Recommendation

Section A, Item 3-Staff made some editorial changes to this section. Establishment and documentation of owner type is critical to start of application process.

Public Comment

Section A, Item 4-One commenter wrote that The Department of Health (“the DOH”) already requires information about the ownership and licensure/certification status of health care programs throughout Tennessee. This duplicative reporting requirement unnecessarily raises the time and cost involved in making CON applications. Furthermore, the pending lawsuits and judgments obtained against applicants and their owners should be irrelevant as long as the applicants and its owners are licensed.

Another commenter wrote that this section could read “Describe the existing or proposed ownership structure of the applicant. Explain the corporate structure and the relationship to the applicant, including ownership percent when applicable.”

Another commenter stated the following: Ownership – a number of states we file certificate of need applications in do not consider ownership below 5%. For example, publicly traded companies with numerous stockholders should not be expected to list all stockholders as owners. The following question could be asked: Should the licensee be a subsidiary corporation, provide a diagram of the licensee's relationship to the Parent Corporation and list the name and address of the Parent Corporation as well as the corporation, which has ultimate control. In addition, please provide the name and mailing address of all persons and/or legal entities having ownership interest of 5 percent or more or any person with any agreement, contract, option, arrangement, or intent to acquire ownership interest of 5 percent or more, of all corporations in the corporate organizational structure which have

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ultimate control of the licensee. Pending lawsuits and/or judgments obtained against the applicant or any party with an ownership interest in the applicant within the past five years should be revised to reflect the desired level of severity, i.e. fraud.

Another commenter wrote the instructions are somewhat cumbersome. I have trouble understanding what “Explaining the corporate structure and the manner in which all entities relate to the applicant.” Who are “all entities?”. Identifying “each member’s percentage of ownership” is an unnecessary burden, especially when there may be a large number of owners. I suggest additional language which would clarify the point at which the percentage of ownership becomes important to the State, such as 5%, 10%, majority interest, etc. Also, identifying “...the financial interest of the applicant, the applicant’s parent company/owner, and the management entity in any other healthcare program in Tennessee involving the delivery of patient care services in settings similar to or different than identified in the application...” is extremely burdensome, especially when further defined by requesting the “...percentage of ownership for each entity identified.” Finally, requesting a summary of any pending lawsuits is inadmissible evidence in a court of law. Requesting judgments or convictions appears more reasonable, but not simply requesting a list of pending lawsuits.

Other commenters asked for the following: The last sentence pertaining to lawsuits and judgments be removed; the section beginning with “and the management entity.....” be removed; the first sentence to

be rewritten as follows: “Describe the existing or proposed ownership structure of the applicant and provide an ownership structure chart.”; the third sentence to be rewritten as follows: “As Applicable, identify the members of the ownership entity having 5% or more of ownership interest and each member’s percentage of ownership.

Staff Recommendation

Section A, Item 4- Legal Counsel recommends deletion of question regarding lawsuits and judgments. This question has been removed. Staff has considered other comments and made applicable changes.

Public Comment

Section A, Item 5-One commenter wrote that an applicant’s agreement with its manager should remain a confidential matter between the parties and should not be disclosed publicly as part of the CON application. Furthermore, the HSDA should not approve or disapprove of agreements between consenting parties.

Another commenter wrote the term “fully executed” should be removed from this section since a prudent applicant would not enter into a “fully executed” agreement without knowing whether the project will receive approval.

Another commenter wrote: Management Contract – in cases where the project is not managed but rather owned and operated, what documentation is required?

Another commenter wrote it is nearly impossible to have a fully executed management agreement prior to the approval of a CON. Evidently realizing such, the instructions request a fully executed Letter of Interest. Such a letter would have to be written in such a way as to not be binding on the entities, for the same reason that an executed management agreement is impossible. Such a letter would have to have all of the particulars agreed to and signed off by the parties. If the parties can’t agree in principal to all of the particulars prior to submitting the application, they would not be willing to sign a binding letter of agreement. So, they would want to sign a non-binding letter. If the letter isn’t binding, the

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request seems hollow. Requesting a draft contract, as you have done in the past, appears more reasonable.

Staff Recommendation

Section A, Item 5-Staff has deleted “fully executed” except for contracts that are currently in place. A draft agreement should provide details of the management agreement which could impact economic feasibility. Staff recommends that the following language be added “Please describe the management entity’s experience in providing management services for the type of the facility, which is the same or similar to the applicant facility. Please describe the ownership structure of the management entity.” These changes are reflected in this item.

Public Comment

Section A, Item 6-One commenter asked that the following language be added to the end of the first sentence: “by the applicant”.

Another commenter wrote once again, the concept of “fully executed” should be removed since the applicant can not go at risk in regard to application approval. Some thought should be given as to what is really required to demonstrate legitimate ownership of real property and/or options to acquire or lease. The applicant attests to the proposed “legal interest” in the site. Including copies of deeds and lease agreements in the application seems unnecessarily burdensome given the few occasions where disputed ownership has been an issue.

Staff Recommendation

Section A, Item 6- Staff made changes as applicable.

| | | | | | | |
|--|--|--|--|--|--|--|
| 1. | <u>Name of Facility, Agency, or Institution</u> | | | | | |
| <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> Name </div> <div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> <div style="display: flex; justify-content: space-between;"> Street or Route County </div> <div style="display: flex; justify-content: space-between;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 30%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> </div> <div style="display: flex; justify-content: space-between;"> City Code ST Zip </div> | | | | | | |
| 2. | <u>Contact Person Available for Responses to Questions</u> | | | | | |
| <div style="display: flex; justify-content: space-between;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> </div> <div style="display: flex; justify-content: space-between;"> Name Title </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> </div> <div style="display: flex; justify-content: space-between;"> Company Name email address </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 30%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> </div> <div style="display: flex; justify-content: space-between;"> Street or Route City State Zip Code </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 30%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 20%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 20%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 20%;"></div> </div> <div style="display: flex; justify-content: space-between;"> Association with Owner Phone Number Fax Number </div> | | | | | | |
| 3. | <u>Owner of the Facility, Agency or Institution</u> | | | | | |
| <div style="display: flex; justify-content: space-between;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> </div> <div style="display: flex; justify-content: space-between;"> Name Number Phone </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 40%;"></div> </div> <div style="display: flex; justify-content: space-between;"> Street or Route County </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="border-bottom: 1px solid black; height: 1.2em; width: 30%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> <div style="border-bottom: 1px solid black; height: 1.2em; width: 10%;"></div> </div> <div style="display: flex; justify-content: space-between;"> City ST Zip Code </div> | | | | | | |
| 4. | <u>Type of Ownership of Control (Check One)</u> | | | | | |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> A. Sole Proprietorship _____ B. Partnership _____ C. Limited Partnership _____ D. Corporation (For Profit) _____ E. Corporation (Not-for-Profit) _____ </td> <td style="width: 50%; vertical-align: top;"> F. Government (State of TN or Political Subdivision) _____ G. Joint Venture _____ H. Limited Liability Company _____ I. Other (Specify) _____ <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%; margin-top: 5px;"></div> </td> </tr> </table> | | | | | A. Sole Proprietorship _____ B. Partnership _____ C. Limited Partnership _____ D. Corporation (For Profit) _____ E. Corporation (Not-for-Profit) _____ | F. Government (State of TN or Political Subdivision) _____ G. Joint Venture _____ H. Limited Liability Company _____ I. Other (Specify) _____ <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%; margin-top: 5px;"></div> |
| A. Sole Proprietorship _____ B. Partnership _____ C. Limited Partnership _____ D. Corporation (For Profit) _____ E. Corporation (Not-for-Profit) _____ | F. Government (State of TN or Political Subdivision) _____ G. Joint Venture _____ H. Limited Liability Company _____ I. Other (Specify) _____ <div style="border-bottom: 1px solid black; height: 1.2em; width: 100%; margin-top: 5px;"></div> | | | | | |

**PUT ALL ATTACHMENTS AT THE BACK OF THE APPLICATION IN ORDER AND
REFERENCE THE APPLICABLE ITEM # ON ALL ATTACHMENTS.**

5. **Name of Management/Operating Entity (If Applicable)**

Name _____

Street or Route _____

County _____

City
Code _____

ST _____

Zip _____

**PUT ALL ATTACHMENTS AT THE END OF THE APPLICATION IN ORDER AND
REFERENCE THE APPLICABLE ITEM # ON ALL ATTACHMENTS.**

6. **Legal Interest in the Site of the Institution (Check One)**

- | | |
|-------------------------------|--------------------------|
| A. Ownership _____ | D. Option to Lease _____ |
| B. Option to Purchase _____ | E. Other (Specify) _____ |
| C. Lease of _____ Years _____ | |

**PUT ALL ATTACHMENTS AT THE BACK OF THE APPLICATION IN ORDER AND
REFERENCE THE APPLICABLE ITEM # ON ALL ATTACHMENTS.**

7. **Type of Institution (Check as appropriate--more than one response may apply)**

- | | |
|--|--|
| A. Hospital (Specify) _____ | G. Nursing Home _____ |
| B. Ambulatory Surgical Treatment Center (ASTC) _____ | H. Outpatient Diagnostic Center _____ |
| C. Home Health Agency _____ | I. Recuperation Center _____ |
| D. Hospice _____ | J. Rehabilitation Facility _____ |
| E. Mental Health Hospital _____ | K. Residential Hospice _____ |
| F. Treatment Facility _____ | L. Non-Residential Methadone Facility _____ |
| Mental Retardation Institutional Habilitation Facility (ICF/MR) _____ | M. Birthing Center _____ |
| | Other Outpatient Facility (Specify) _____ |
| | Other (Specify) _____ |

8. Purpose of Review (Check) as appropriate--more than one response may apply)

- | | | | |
|-----------------------------------|-------|-----------------------------|-------|
| A. New Institution | _____ | G. Change in Bed Complement | _____ |
| B. Replacement/Existing Facility | _____ | [Please note the type of | _____ |
| C. Modification/Existing Facility | _____ | change by underlining the | _____ |
| D. Initiation of Health Care | _____ | appropriate response: | _____ |
| Service as defined in TCA § | _____ | Increase, Decrease, | _____ |
| 68-11-1607(4) | _____ | Designation, Distribution, | _____ |
| E. (Specify)_____ | _____ | Conversion, Relocation] | _____ |
| F. _____ | _____ | I. Change of Location | _____ |
| Discontinuance of OB Services | _____ | Other (Specify) | _____ |
| Acquisition of Equipment | _____ | | _____ |

9. Bed Complement Data

Please indicate current and proposed distribution and certification of facility beds.

| | <u>Current Beds</u> <u>Licensed/*CON</u> | <u>Staffed</u> <u>Beds</u> | <u>Beds</u> <u>Proposed</u> | <u>TOTAL</u> <u>Beds at</u> <u>Completion</u> |
|--|---|-------------------------------|--------------------------------|---|
| A. Medical | _____ | _____ | _____ | _____ |
| B. Surgical | _____ | _____ | _____ | _____ |
| C. Long-Term Care Hospital | _____ | _____ | _____ | _____ |
| D. Obstetrical | _____ | _____ | _____ | _____ |
| E. ICU/CCU | _____ | _____ | _____ | _____ |
| F. Neonatal | _____ | _____ | _____ | _____ |
| G. Pediatric | _____ | _____ | _____ | _____ |
| H. Adult Psychiatric | _____ | _____ | _____ | _____ |
| I. Geriatric Psychiatric | _____ | _____ | _____ | _____ |
| J. Child/Adolescent Psychiatric | _____ | _____ | _____ | _____ |
| K. Rehabilitation | _____ | _____ | _____ | _____ |
| L. Nursing Facility (non-Medicaid Certified) | _____ | _____ | _____ | _____ |
| M. Nursing Facility Level 1 (Medicaid only) | _____ | _____ | _____ | _____ |
| N. Nursing Facility Level 2 (Medicare | _____ | _____ | _____ | _____ |
| O. only) | _____ | _____ | _____ | _____ |
| Nursing Facility Level 2 | _____ | _____ | _____ | _____ |
| P. (dually certified Medicaid/Medicare) | _____ | _____ | _____ | _____ |
| Q. ICF/MR | _____ | _____ | _____ | _____ |
| R. Adult Chemical Dependency | _____ | _____ | _____ | _____ |
| Child and Adolescent Chemical | _____ | _____ | _____ | _____ |
| S. Dependency | _____ | _____ | _____ | _____ |
| T. Swing Beds | _____ | _____ | _____ | _____ |
| U. Mental Health Residential Treatment | _____ | _____ | _____ | _____ |
| Residential Hospice | _____ | _____ | _____ | _____ |
| TOTAL | _____ | _____ | _____ | _____ |

*CON-Beds approved but not yet in service

| | | | | | |
|--------------------------------|---|--------------------------------|--------------|---------------|-----------|
| 10. | Medicare Provider Number _____ Certification Type _____ | | | | |
| 11. | Medicaid Provider Number _____ Certification Type _____ | | | | |
| 12. | If this is a new facility, will certification be sought for Medicare and/or Medicaid? | | | | |
| 13. | <p>Identify all TennCare MCOs/BHOs operating in the proposed service area. Will this project involve the treatment of TennCare participants?_____ If the response to this item is yes, please identify all MCOs with which the applicant has contracted or plans to contract.</p> <p><i>Discuss any out-of-network relationships in place with MCOs/BHOs in the area.</i></p> | | | | |
| 14. | <p>List all contracts which the facility/applicant has or plans to have in place (attach list on separate sheet of paper if necessary).</p> <table> <tr> <td>A. Managed Care Organizations:</td> <td>C. Networks:</td> </tr> <tr> <td>B. Alliances:</td> <td>D. Other:</td> </tr> </table> | A. Managed Care Organizations: | C. Networks: | B. Alliances: | D. Other: |
| A. Managed Care Organizations: | C. Networks: | | | | |
| B. Alliances: | D. Other: | | | | |

COMMENTS

Public Comment

Section A, Items 6, 7, and 8- One commenter wrote blanks require check marks rather than circles.

Another commenter wrote Item 6 requests a check mark, but Items 7 & 8 request a circle. I suggest a check mark for all items.

Staff Recommendation

Section A, Items 6, 7, and 8- Staff concurs. Those changes have been made.

Public Comment

Section A., Item 9- One commenter wrote there are instances where a facility has approved beds that are not yet in service. The form does not allow for the reporting of such beds. I suggest a fifth column between “Staffed Beds” and “Beds Proposed” that states “CON Beds Approved” with an instruction that such beds are approved but not yet licensed (or in service).

Staff Recommendation

Section A., Item 9- Staff concurs. Those changes have been made.

Public Comment

Section A, Item 13-One commenter wrote that The DOH already has information about the operation of TennCare managed care organizations throughout Tennessee. This duplicative reporting requirement unnecessarily raises the time and cost involved in making CON applications.

Another commenter wrote clarification is necessary regarding whether Behavioral Health Organizations are to be included. In addition, staff has access to the prevailing TennCare MCOs and their respective service areas, or if not, this information could be easily assembled. Therefore, it seems that the applicant statement of service area and the agencies with which they intend to contract should be sufficient.

Other commenters suggested adding “/BHOs” immediately after “MCOs; adding the following: “Discuss any out-of-network relationships in place with MCOs/BHOs in the area”

Staff Recommendation

Section A, Item 13-With respect to comment regarding duplicative reporting requirements, burden of proof is on the applicant and it is not realistic to expect Agency members or staff to research this information for twelve to fifteen applications per month. Staff concurs with other commenters suggestions.

Public Comment

Section A, Item 14- One commenter wrote This question could also list transfer agreements, which are requested later in the application, which would negate the latter question.

Staff Recommendation

Section A, Item 14-Staff concurs. This item is combined with a question in Section C regarding orderly development.

NOTE: **Section B** is intended to give the applicant an opportunity to describe the project and to discuss the need that the applicant sees for the project. **Section C** addresses how the project relates to the Certificate of Need criteria of Need, Economic Feasibility, and the Contribution to the Orderly Development of Health Care.

SECTION B: PROJECT DESCRIPTION

Please answer all questions on 8 1/2" x 11" white paper, clearly typed and spaced, identified correctly and in the correct sequence. In answering, please type the question and the response. All exhibits and tables must be attached to the end of the application in correct sequence identifying the questions(s) to which they refer. If a particular question does not apply to your project, indicate "Not Applicable (NA)" after that question.

- I. Provide a brief executive summary of the project not to exceed two pages. Topics to be included in the executive summary are a brief description of proposed services and equipment, ownership structure, service area, need, existing resources, project cost, funding, financial feasibility and staffing.
- II. Provide a detailed narrative of the project by addressing the following items as they relate to the proposal.
 - A. Describe the construction, modification and/or renovation of the facility (exclusive of major medical equipment covered by T.C.A. § 68-11-1601 et seq.) including square footage, major operational areas, room configuration, etc. Applicants with hospital projects (construction cost in excess of \$5 million) and other facility projects (construction cost in excess of \$2 million) should complete the Square Footage and Cost per Square Footage Chart. Utilizing the attached Chart, applicants with hospital projects should complete Parts A.-E. by identifying as applicable nursing units, ancillary areas, and support areas affected by this project. Provide the location of the unit/service within the existing facility along with current square footage, where, if any, the unit/service will relocate temporarily during construction and renovation, and then the location of the unit/service with proposed square footage. The total cost per square foot should provide a breakout between new construction and renovation cost per square foot. Other facility projects need only complete Parts B.-E. Please also discuss and justify the cost per square foot for this project.

If the project involves none of the above, describe the development of the proposal.
 - B. Identify the number and type of beds increased, decreased, converted, relocated, designated, and/or redistributed by this application. Describe the reasons for change in bed allocations and describe the impact the bed change will have on the existing services.

COMMENTS

Public Comment

Section B, Item I-One commenter wrote the section should be changed to read: “Provide a brief executive summary of the project not to exceed two pages. Topics to be considered for inclusion in the executive summary include a brief description of proposed services and equipment, ownership structure, service area, need, existing resources, project cost, funding, financial feasibility and staffing.”

Another commenter wrote due to the vast amount of information sent to the Agency Directors each month, I fear Agency Directors might be enticed to read only the Executive Summary, rather than the entire application. I suggest streamlining what is sent to the Agency Directors, such as not sending all of the entity organization agreements (charters, etc.) and real estate documents (deeds, options, options to lease, etc.)..

Other comments included changing “two page summary” to “brief summary”; and reducing the number of sub-headings to three: need, financial feasibility, and orderly development.

Staff Recommendation

Section B, Item I-Staff recommends minor changes. The length of the executive summary should be very specific to avoid lengthy write-ups which will be inconsistent with the intent of an executive summary. Staff also recommends keeping the nine sub-headings as they provide an outline of the application that goes beyond the three major criteria.

SQUARE FOOTAGE AND COST PER SQUARE FOOTAGE CHART

[illegible]

COMMENTS

Public Comment

Section B, Item II.A. –One commenter wrote what is the purpose of the detail by the agency of sq. ft and cost requested in Chart D? Currently, scale drawings are not required. However, to produce the detail requested on Chart D, an architect would have to provide the information for the table. The following questions may address the agency concerns: State the specific location of the facility or service and/or equipment, including, where applicable, specific areas of an existing facility to be affected by the project. Provide room numbers of all patient rooms affected. Sufficient detail should be provided to allow the agency to visually inspect the site. The number of private and semi-private patient rooms shall be identified. Provide details regarding any proposed construction and/or renovations. Discuss alternatives to new construction considered and why these alternatives were rejected. For a multi-floor project, construction and/or renovation must be described, by floor, to include any additions and/or deletions made to each floor. Provide evidence that the applicant has adequately planned for any temporary move or relocation of any department, facility, or services, which may be necessary during the construction period. Document that plans exist to assure adequate protection (from fire, noise, dust, etc.) and continuation of all services during the proposed construction period. If a replacement facility or ancillary service is being constructed, describe plans for disposition of the existing facility or ancillary service area upon completion of the project. A sample table is below:

1. Please complete the table below. This summary information must be consistent with the financial schedules and the schematic plans you have completed for this project.

TABLE A

| | Amounts | Source of Information |
|---|-------------------------|---------------------------------|
| A. Total GSF of New Construction | <input type="text"/> | Schematic Plans |
| B. Total GSF of Renovation | <input type="text"/> | Schematic Plans |
| C. Total GSF of Project | <input type="text"/> | Schematic Plans |
| NSF Per Bed in Patient Rooms | | |
| D. 1-Bed Rooms | <input type="text"/> | Schematic Plans |
| E. 2-Bed Rooms | <input type="text"/> | Schematic Plans |
| F. 3-Bed Rooms | <input type="text"/> | Schematic Plans |
| G. 4-Bed Rooms | <input type="text"/> | Schematic Plans |
| H. Construction Cost | \$ <input type="text"/> | Chart A (Section A, Line 5) |
| I. Construction Cost per GSF | \$ <input type="text"/> | H. divided by C. |
| J. Rate of Contingency | \$ <input type="text"/> | % of H. |
| K. Total Building Cost | \$ <input type="text"/> | Chart A (Section A, Lines 1..9) |
| L. Total Building Cost per GSF | \$ <input type="text"/> | K. divided by C. |
| M. Total Building Cost per Bed | \$ <input type="text"/> | K. divided by # of beds |
| N. Movable Equipment Cost | \$ <input type="text"/> | Chart A (Section A, Line 8) |
| O. Total Project Cost | \$ <input type="text"/> | Chart A (Section D) |
| P. Total Project Cost per Bed | \$ <input type="text"/> | O. divided by # of beds |
| Q. Percent of Inflation | <input type="text"/> | Included in H. |
| R. Amount of Inflation | \$ <input type="text"/> | Included in H. |
| S. Anticipated Type of Contract: (Check One) | | |
| <input type="checkbox"/> Design/Build | | |
| <input type="checkbox"/> Cost Plus | | |
| <input type="checkbox"/> Negotiated | | |

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NOTE: If the project involves a structure that is existing, or one that is under construction and not yet licensed as a health care facility or used for health care services, costs must be allocated since capitalization will occur.

One commenter wrote I realize that a generation of people have grown up knowing what Charts A, B, and C are, but as you are redesigning the form, it makes sense to name the first chart you come to in the application as "Chart A." We will get used to the new nomenclature. In the alternative, I suggest placing all charts at the end of the application so they will be in order, and leave the nomenclature as stated. Further, obtaining the cost of renovated and new space, by department, is almost impossible to determine. I suggest deleting these columns.

Another commenter wrote the Proposed Final Cost/SF column should be removed since it requires costly additional work for an architect or project manager to allocate costs by the unit/department required in the row headings. Separate line items could address final new and renovated cost per square foot. Also, the Temporary column should require only the proposed interim location and not the square feet or other details.

One commenter suggested rearranging the paragraph so that it is clear that Chart D applies to projects with costs over the dollar thresholds.

One commenter asked that the chart be revised so that mechanical and circulation space did not have to be provided by department.

Another commenter asked that cost per square foot by department be eliminated.

Staff Recommendation

Section B, Item II.A. -Staff concurs with the change in nomenclature. The proposed alternative chart is too specific to nursing homes and does not apply well to other types of facility projects. Staff concurs that mechanical and circulation space by department be eliminated. Staff has been in contact with several architects and based on their comments obtaining square footage by department is reasonable but cost per square footage information by department would be difficult to ascertain at this stage of a construction project. Staff concurs and applicable changes have been made to Square Footage and Cost Per Square Footage Chart.

Public Comment

Section B, Item II.B. -One commenter wrote describing the impact the bed changes will have on existing services should be unnecessary given that the reason for change is requested. It would be rare for an applicant to propose bed changes that have an anticipated negative impact on operations of the facility.

Staff Recommendation

Section B, Item II.B. -Staff recommends that no changes be made to this item.

- C. As the applicant, describe your need to provide the following health care services (if applicable to this application):
1. Adult Psychiatric Services
 2. Alcohol and Drug Treatment for Adolescents (exceeding 28 days)
 3. Birthing Center
 4. Burn Units
 5. Cardiac Catheterization Services
 6. Child and Adolescent Psychiatric Services
 7. Extracorporeal Lithotripsy
 8. Home Health Services
 9. Hospice Services
 10. Residential Hospice
 11. ICF/MR Services
 12. Long-term Care Services
 13. Magnetic Resonance Imaging (MRI)
 14. Mental Health Residential Treatment
 15. Neonatal Intensive Care Unit
 16. Non-Residential Methadone Treatment Centers
 17. Open Heart Surgery
 18. Positron Emission Tomography
 19. Radiation Therapy/Linear Accelerator
 20. Rehabilitation Services
 21. Swing Beds
- D. Describe the need to change location or replace an existing facility.
- E. Describe the acquisition of any item of major medical equipment (as defined by the Agency Rules and the Statute) which exceeds a cost of \$1.5 million; and/or is a magnetic resonance imaging (MRI) scanner, positron emission tomography (PET) scanner, extracorporeal lithotripter and/or linear accelerator by responding to the following:
1. For fixed-site major medical equipment (not replacing existing equipment):
 - a. Describe the new equipment, including:
 1. Total cost ;(As defined by Agency Rule).
 2. Expected useful life;
 3. List of clinical applications to be provided; and
 4. Documentation of FDA approval.
 - b. Provide current and proposed schedules of operations.
 2. For mobile major medical equipment:
 - a. List all sites that will be served;
 - b. Provide current and/or proposed schedule of operations;

- c. Provide the lease or contract cost.
 - d. Provide the fair market value of the equipment; and
 - e. List the owner for the equipment.
3. Indicate applicant's legal interest in equipment (*i.e.*, purchase, lease, etc.) In the case of equipment purchase include a quote and/or proposal from an equipment vendor, or in the case of an equipment lease provide a draft lease or contract that at least includes the term of the lease and the anticipated lease payments.

III.A. Attach a copy of the plot plan of the site on an 8 1/2" x 11" sheet of white paper which **must include**:

1. Size of site (***in acres***);
2. Location of structure on the site; and
3. Location of the proposed construction.
4. Names of streets, roads or highway that cross or border the site.

III.B. 1. Describe the relationship of the site to public transportation routes, if any, and to any highway or major road developments in the area. Describe the accessibility of the proposed site to patients/clients.

Please note that the drawings do not need to be drawn to scale. Plot plans are required for all projects.

IV. Attach a floor plan drawing for the facility which includes legible labeling of patient care rooms (noting private or semi-private), ancillary areas, equipment areas, etc. on an 8 1/2" x 11" sheet of white paper.

NOTE: **DO NOT SUBMIT BLUEPRINTS**. Simple line drawings should be submitted and need not be drawn to scale.

V. For a Home Health Agency & Hospice, identify:

- A. Existing service area by County;
- B. Proposed service area by County;
- C. A parent or primary service provider;
- D. Existing branches;
- E. Proposed branches

COMMENTS

Public Comment

Section B, Item II.C.-One commenter wrote Item #18 is deleted on my copy of the revised form. Is outpatient surgery still certifiable?

Staff Recommendation

Section B, Item II.C.-Outpatient surgery is not a certifiable service. To be certifiable it has to be associated with the establishment of an ASTC or associated with a hospital project.

Public Comment

Section B, Item II.E. - One commenter wrote: It may suffice to simply say "...major medical equipmentwhich exceeds the cost of the then current dollar threshold." thus eliminating the need to list equipment. If the list is retained, the phrase "or is one of" could be added.

One commenter asked that the wording be changed so that it is clear that this item applies to major medical equipment and/or MRI, PET, Lithotripters, and Linear Accelerators

Staff Recommendation

Section B, Item II.E. - Staff concurs. Additionally staff recommends specific to Item II.E. 3, that documentation of a quote or draft lease agreement from an equipment vendor be required.

Public Comment

Section B, Item II.E.1.a.4.-One commenter wrote: Should change to "Documentation if not FDA approved."

One commenter asked that this be reworded to read "If not FDA approved, please discuss."

Staff Recommendation

Section B, Item II.E.1.a.4.-Burden of proof is on the applicant. Documentation of FDA approval eliminates any concerns here.

Public Comment

Section B, Item III.A.2.-One commenter asked if dimensions of real property provided any real value and if it could be eliminated.

Staff Recommendation

Section B, Item III.A.2.-Staff concurs and recommends deletion of this item

Public Comment

Section B, Item III.B.1.-3. One commenter wrote that applicants should not be required to describe zoning issues related to their proposed programs, as zoning matters have been devolved from the State of Tennessee to counties and municipalities. In any case, applicants must adhere to governmental zoning requirements. As such, this reporting requirement unnecessarily raises the time and cost involved in making CON applications. Applicants will lose their CON if they cannot complete the project due to zoning issues if not solved in predetermined timeframe. Further, attempting to assess the projects relationship to public transportation routes is far reaching.

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Another commenter wrote Delete both items related to zoning and encumbrances since they are operational considerations inconsistent with determining need. If the intent is to identify extraordinary costs associated with property use, a line item in the project expense form can be added. The phrase “..and employees.” should be removed. Employees consider employer location when deciding to apply for or accept a position.

Another commenter wrote: The request to ensure proper zoning of land appears to fall outside the scope of review by the HSDA. I suggest deleting this request. If Items III.B.1 and III.B.2 are deleted; this item can be inserted in Item III.A. as item 6, thereby negating the need for a III.B (therefore negating the need for a III.A – which can become Item III).

Other commenters also questioned the reasonableness and the role of CON pertaining to requiring zoning and encumbrance information. Other commenters requested that reference to visitors and employees be deleted from Item III.B.3.

Staff Recommendation

Section B, Item III.B.1.-3.-Staff concurs and applicable changes are reflected in the document.

Public Comment

Section B, Item IV.-One commenter wrote: While the instructions do not seem to state this at this point, it has been the custom of the staff to request all floor plans on 8½” by 11” paper. Reducing complicated line drawings to such a small size results in illegible line drawings. Conversely, submitting large architectural renderings results in bulky files. The instruction “DO NOT SUBMIT BLUEPRINTS” is somewhat disingenuous, as many experienced applicants already have such drawings, and it is senseless to have them and not use them. Perhaps the instructions should state that all drawings should be on 8½ x 11 unless such a submission renders illegible drawings, at which time the applicant is encouraged to meet with staff to arrange a resolution of the problem.

Staff Recommendation

Section B, Item II.-Staff has added in item that floor plans should be provided on 8½ by 11” white paper.

Public Comment

Section B, Item V.-One commenter suggested that Home Care Organization be changed to Home Health Agency and Hospice.

Staff Recommendation

Section B, Item V.-Staff concurs and has made the applicable change.

SECTION C: GENERAL CRITERIA FOR CERTIFICATE OF NEED

In accordance with Tennessee Code Annotated § 68-11-1609(b), “no Certificate of Need shall be granted unless the action proposed in the application for such Certificate is necessary to provide needed health care in the area to be served, can be economically accomplished and maintained, and will contribute to the orderly development of health care.” The three (3) criteria are further defined in Agency Rule 0720-4-.01. Further standards for guidance are provided in the state health plan (Guidelines for Growth), developed pursuant to Tennessee Code Annotated §68-11-1625.

The following questions are listed according to the three (3) criteria: (I) Need, (II) Economic Feasibility, and (III) Contribution to the Orderly Development of Health Care. Please respond to each question and provide underlying assumptions, data sources, and methodologies when appropriate. Please type each question and its response on an 8 1/2” x 11” white paper. All exhibits and tables must follow the responses to which they refer. If a question does not apply to your project, indicate “Not Applicable (NA).”

QUESTIONS

NEED

1. Describe the relationship of this proposal toward the implementation of the State Health Plan and Tennessee’s Health: Guidelines for Growth.
 - a. Please provide a response to each criterion and standard in Certificate of Need Categories that are applicable to the proposed project. Do not provide responses to General Criteria and Standards (pages 6-9) here.
 - b. Applications that include a Change of Site for a health care institution, provide a response to General Criterion and Standards (4)(a-c)
2. Describe the relationship of this project to the applicant facility’s long-range development plans, if any.
3. Identify the proposed service area and justify the reasonableness of that proposed area. Submit a county level map including the State of Tennessee clearly marked to reflect the service area. **Please submit the map on 8 1/2” x 11” sheet of white paper marked only with ink detectable by a standard photocopier (i.e., no highlighters, pencils, etc.).**
4.
 - A. Describe the demographics of the population to be served by this proposal.
 - B. Describe the special needs of the service area population, including health disparities, the accessibility to consumers, particularly the elderly, women, racial and ethnic minorities, and low-income groups. Document how the business plans of the facility will take into consideration the special needs of the service area population.
5. Describe the existing or certified services, including approved but unimplemented CONs, of similar institutions in the service area. Include utilization and/or occupancy trends for each of the most recent three years of data available for this type of project. Be certain to list each institution and its utilization and/or occupancy individually. Inpatient bed projects must

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include the following data: admissions or discharges, patient days, and occupancy. Other projects should use the most appropriate measures, e.g., cases, procedures, visits, admissions, etc.

6. Provide applicable utilization and/or occupancy statistics for your institution for each of the past three (3) years and the projected annual utilization for each of the two (2) years following completion of the project. Additionally, provide the details regarding the methodology used to project utilization. The methodology **must include** detailed calculations or documentation from referral sources, and identification of all assumptions.

ECONOMIC FEASIBILITY

1. Provide the cost of the project by completing the Project Costs Chart on the following page. Justify the cost of the project.
 - All projects should have a project cost of at least \$3,000 on Line F. (Minimum CON Filing Fee). CON filing fee should be calculated from Line D. (See Application Instructions for Filing Fee)
 - The cost of any lease should be based on fair market value or the total amount of the lease payments over the initial term of the lease, whichever is greater.
 - The cost for fixed and moveable equipment includes, but is not necessarily limited to, maintenance agreements covering the expected useful life of the equipment; federal, state, and local taxes and other government assessments; and installation charges, excluding capital expenditures for physical plant renovation or in-wall shielding, which should be included under construction costs or incorporated in a facility lease.
 - For projects that include new construction, modification, and/or renovation; **documentation must be** provided from a contractor and/or architect that support the estimated construction costs.

COMMENTS

Public Comment

Section C., Need, Item 1.-One commenter asked that this be reworded to state “State Health Plan and Tennessee’s Health: Guidelines for Growth.

Staff Recommendation

Section C., Need, Item 1.-Staff concurs. The change has been made.

Public Comment

Section C., Need, Item 2. - One commenter wrote that the applicant should not be required to describe the relationship of the proposed project to its long-range development plans, as the applicant does not seek approval for such plans. In any case, such plans may be ill defined and subject to change without notice, no plan survives the early test of the marketplace.

Staff Recommendation

Section C., Need, Item 2.-Staff opinion is that it is not unreasonable for the applicant to demonstrate that a particular project is consistent with the organization’s long range plans. Staff recommends no changes to this item.

Public Comment

Section C., Need, Item 3.-One commenter wrote Add the words “county level” before the word map.

One commenter suggested changing the wording to include “Submit a map *including* the State of Tennessee. This was suggested mainly for applicants with service areas that extend into other states.

Staff Recommendation

Section C., Need, Item 3.-Staff concurs. The changes have been made.

Public Comment

Section C, Need, Item 4.B.-One commenter wrote that of course applicants must adhere to federal and state laws regarding the special needs of certain elements of their service area populations. However, this reporting requirement unnecessarily raises the time and cost involved in making CON applications and asks a question usually identified by applicants if it is felt this information is advantageous to the applicant.

Staff Recommendation

Section C, Need, Item 4. B.-This item is derived from Agency rules and the general criteria in the Guidelines for Growth and is thus required.

Public Comment

Section C, Need, Item 5. - One commenter wrote: Remove the phrase “..., including approved but unimplemented CONs..” The HSDA office knows of approved but unimplemented CONs and can consider these resources in their review of need. Otherwise, the HSDA should create a database that identifies approved CONs and other items routinely requested (i.e. cost per square foot for comparable projects, major medical equipment, etc.), and make that database accessible electronically via e-mail or web based mechanisms. A summary sheet containing the items to be entered for each project could be completed by the applicant so that staff can easily import the data.

Another commenter wrote: As the data available at the State is always old, I fail to see why 3 years of history is important. For example, if the applicant is for an MRI and the latest data is already 2 years old, why is the submission of 3, 4, and 5 year old data important?

Several commenters expressed concern regarding the request for three years of historical data. Concerns included the validity of the data and accessibility to three years of data.

Staff Recommendation

Section C, Need, Item 5.-Staff contacted Division of Health Statistics at DOH and was told that most recent five years of data is readily accessible. Staff believes that the establishment of a baseline trend is key to establishing need and cannot be accomplished through the provision of only two years of data. A minimum of three years of data is required to establish a trend.

Public Comment

Section C, Need, Item 6.-One commenter wrote that the applicants should not be required to provide the details regarding the methodology used to project utilization, as such information may be proprietary and confidential to the applicants. Furthermore, such detail would lead applicants and the HSDA into excruciating analyses of minutiae. This does not seem to help identify need but rather who in the market needs to be mad at whom for how and where they will take care of their patients. This will make a hearing twice as long at least once a question that goes to this detail is explored.

Another commenter wrote: Remove "...documentation of referral sources.." since this would be difficult, if not impossible, to document in most cases.

Another commenter wrote: Three year data is not that much more "telling" as to the financial viability of a project as would be two year data. The addition of the 3rd year is burdensome without providing any real value to the reviewer.

Another commenter wrote: If the purpose of this question is to extrapolate from the three years of occupancy data collected in the JAR to present day occupancy, then more timely data is needed. It seems meaningless to discuss historical trends when the most current data year presented is three years old. By adding a third year we only go further from the present day and more importantly, further from current market conditions and experience.

Staff Recommendation

Section C, Need, Item 6.-Staff disagrees. Understanding how projections are derived are key to determining whether need is met. Staff recommends that no changes be made to this item.

PROJECT COSTS CHART

| | | |
|----|---|-------|
| A. | Construction and equipment acquired by purchase: | |
| 1. | Architectural and Engineering Fees | _____ |
| 2. | Legal, Administrative (Excluding CON Filing Fee), Consultant Fees | _____ |
| 3. | Acquisition of Site | _____ |
| 4. | Preparation of Site | _____ |
| 5. | Construction Costs | _____ |
| 6. | Contingency Fund | _____ |
| 7. | Fixed Equipment (Not included in Construction Contract) | _____ |
| 8. | Moveable Equipment (List all equipment over \$50,000) | _____ |
| 9. | Other (Specify) _____ | _____ |
| B. | Acquisition by gift, donation, or lease: | |
| 1. | Facility (inclusive of building and land) | _____ |
| 2. | Building only | _____ |
| 3. | Land only | _____ |
| 4. | Equipment (Specify) _____ | _____ |
| 5. | Other (Specify) _____ | _____ |
| C. | Financing Costs and Fees: | |
| 1. | Interim Financing | _____ |
| 2. | Underwriting Costs | _____ |
| 3. | Reserve for One Year's Debt Service | _____ |
| 4. | Other (Specify) _____ | _____ |
| D. | Estimated Project Cost (A+B+C) | _____ |
| E. | CON Filing Fee | _____ |
| F. | Total Estimated Project Cost (D+E) | _____ |
| | TOTAL | _____ |

COMMENTS

Public Comment

Section C, Economic Feasibility, Item 1. (Project Costs Chart)-One commenter wrote: Add a separate line below the “Total Estimated Project Cost” for inclusion of the filing fee. This approach would make it clear how the filing fee is calculated and would not embed the filing fee in A.9.

Another commenter wrote: I agree with the suggestion that a separate item should follow the total project cost, and list the amount of the filing fee that was submitted with the application. The filing fee should not be a part of the project costs.

One commenter requested that Chart A be revised by creating a separate line item for filing fee below the Project Cost line so that the filing fee is not included as part of the filing fee calculation.

Staff Recommendation

Section C, Economic Feasibility, Item 1. (Project Costs Chart)-Staff concurs and has made the applicable change.

2. Identify the funding sources for this project.

- a. Please check the applicable item(s) below and briefly summarize how the project will be financed. **(Documentation for the type of funding MUST be inserted at the end of the application, in the correct alpha/numeric order and identified as Attachment C, Economic Feasibility-2.)**

- ___ A. Commercial loan--Letter from lending institution or guarantor stating favorable initial contact, proposed loan amount, expected interest rates, anticipated term of the loan, and any restrictions or conditions;
- ___ B. Tax-exempt bonds--Copy of preliminary resolution or a letter from the issuing authority stating favorable initial contact and a conditional agreement from an underwriter or investment banker to proceed with the issuance;
- ___ C. General obligation bonds—Copy of resolution from issuing authority or minutes from the appropriate meeting.
- ___ D. Grants--Notification of intent form for grant application or notice of grant award; or
- ___ E. Cash Reserves--Appropriate documentation from Chief Financial Officer.
- ___ F. Other—Identify and document funding from all other sources.

3. *Discuss and document the reasonableness of the proposed project costs. If applicable, compare the cost per square foot of construction to similar projects recently approved by the Health Services and Development Agency.*

4. *Identify and document all applicable federal/state/local government standards, including those ~~required by any State of Tennessee licensing agency that apply to this project.~~*

5. Complete Charts B and C on the following two pages--**Do not modify the Charts provided or submit Chart substitutions!** Chart B represents revenue and expense information for the last *three (3)* years for which complete data is available for the institution. Chart C requests information for the *two (2)* years following the completion of this proposal. Chart C should reflect revenue and expense projections for the **Proposal Only** (*i.e.*, if the application is for additional beds, include anticipated revenue from the proposed beds only, not from all beds in the facility).

6. Please identify the project's average gross charge, average deduction from operating revenue, and average net charge.

COMMENTS

Public Comment

Section C, Economic Feasibility, Item 2.a. - I suggest that all charts and other documentation be added at the end of the application form, identified by a table of contents and labeled the same as the question to which it relates. For example, if a chart is requested at Item II.2 of the application form, that chart should be labeled “Item II.2” or “Attachment II.2” or words to that extent.

Public Comment

Section C, Economic Feasibility, Item 3-One commenter wrote that applicants should not be required to additionally discuss and document the reasonableness of the proposed project costs, as the entire application already serves this function. Applicants with any savvy will do so and those who oppose will find the holes and bring them to your attention.

Another commenter wrote: As stated earlier, a database constructed from existing data available to staff would remove the need for the applicant to compare to similar projects. The notion of defending extraordinary costs could be maintained through retention of the first sentence.

Another commenter wrote: Reasonableness of the proposed project cost. This question seems to be asked and answered by responding to Question II (1).

Staff Recommendation

Section C, Economic Feasibility, Item 3-Reasonableness of project cost is a key component in determining economic feasibility. Applicant will have to compare project costs until such time that a database is developed. Staff recommends no changes.

Public Comment

Section C, Economic Feasibility, Item 4-One commenter wrote that applicants should not have to identify and document all applicable federal, state and local government standards, as such standards already should be known by the HSDA, or the DOH at least. This seems redundant; you can’t get licensed without knowledge and execution of these standards. All you will get here is a boilerplate answer each time, why waste the paper?

Another commenter wrote: This section should be removed entirely since the applicant must operate in accord with all existing regulations and laws.

Another commenter wrote: This request appears to be outside the scope of review by the HSDA. In particular, this appears to be a licensure issue. I suggest it be deleted.

Another commenter also suggested deletion of this question.

Staff Recommendation

Section C, Economic Feasibility, Item 4-This standard can be combined with Orderly Development standards. Staff recommends deletion of this standard.

HISTORICAL DATA CHART

Give information for the last *three (3)* years for which complete data are available for the facility or agency. The fiscal year begins in _____ (Month).

| | Year _____ | Year _____ | Year _____ |
|---|-------------------|-------------------|-------------------|
| A. Utilization Data (Specify unit of measure) | _____ | _____ | _____ |
| B. Revenue from Services to Patients | | | |
| 1. Inpatient Services | \$_____ | \$_____ | \$_____ |
| 2. Outpatient Services | _____ | _____ | _____ |
| 3. Emergency Services | _____ | _____ | _____ |
| 4. Other Operating Revenue (Specify)_____ | _____ | _____ | _____ |
| Gross Operating Revenue | \$_____ | \$_____ | \$_____ |
| C. Deductions for Operating Revenue | | | |
| 1. Contractual Adjustments | \$_____ | \$_____ | \$_____ |
| 2. Provision for Charity Care | _____ | _____ | _____ |
| 3. Provisions for Bad Debt | _____ | _____ | _____ |
| Total Deductions | \$_____ | \$_____ | \$_____ |
| NET OPERATING REVENUE | \$_____ | \$_____ | \$_____ |
| D. Operating Expenses | | | |
| 1. Salaries and Wages | \$_____ | \$_____ | \$_____ |
| 2. Physician's Salaries and Wages | _____ | _____ | _____ |
| 3. Supplies | _____ | _____ | _____ |
| 4. Taxes | _____ | _____ | _____ |
| 5. Depreciation | _____ | _____ | _____ |
| 6. Rent | _____ | _____ | _____ |
| 7. Interest, other than Capital | _____ | _____ | _____ |
| 8. Other Expenses (Specify) _____ | _____ | _____ | _____ |
| Total Operating Expenses | \$_____ | \$_____ | \$_____ |
| E. Other Revenue (Expenses) – Net (Specify) | \$_____ | \$_____ | \$_____ |
| NET OPERATING INCOME (LOSS) | \$_____ | \$_____ | \$_____ |
| F. Capital Expenditures | | | |
| 1. Retirement of Principal | \$_____ | \$_____ | \$_____ |
| 2. Interest | _____ | _____ | _____ |
| Total Capital Expenditures | \$_____ | \$_____ | \$_____ |
| NET OPERATING INCOME (LOSS) | | | |
| LESS CAPITAL EXPENDITURES | \$_____ | \$_____ | \$_____ |

PROJECTED DATA CHART

Give information for the two (2) years following the completion of this proposal. The fiscal year begins in _____ (Month).

| | Year_____ | Year_____ |
|---|----------------|----------------|
| A. Utilization Data (Specify unit of measure) | _____ | _____ |
| B. Revenue from Services to Patients | | |
| 1. Inpatient Services | \$_____ | \$_____ |
| 2. Outpatient Services | _____ | _____ |
| 3. Emergency Services | _____ | _____ |
| 4. Other Operating Revenue (Specify)_____ | _____ | _____ |
| Gross Operating Revenue | \$_____ | \$_____ |
| C. Deductions for Operating Revenue | | |
| 1. Contractual Adjustments | \$_____ | \$_____ |
| 2. Provision for Charity Care | _____ | _____ |
| 3. Provisions for Bad Debt | _____ | _____ |
| Total Deductions | \$_____ | \$_____ |
| NET OPERATING REVENUE | \$_____ | \$_____ |
| D. Operating Expenses | | |
| 1. Salaries and Wages | \$_____ | \$_____ |
| 2. Physician's Salaries and Wages | _____ | _____ |
| 3. Supplies | _____ | _____ |
| 4. Taxes | _____ | _____ |
| 5. Depreciation | _____ | _____ |
| 6. Rent | _____ | _____ |
| 7. Interest, other than Capital | _____ | _____ |
| 8. Other Expenses (Specify) _____ | _____ | _____ |
| Total Operating Expenses | \$_____ | \$_____ |
| E. Other Revenue (Expenses) -- Net (Specify) | \$_____ | \$_____ |
| NET OPERATING INCOME (LOSS) | \$_____ | \$_____ |
| F. Capital Expenditures | | |
| 1. Retirement of Principal | \$_____ | \$_____ |
| 2. Interest | _____ | _____ |
| Total Capital Expenditures | \$_____ | \$_____ |
| NET OPERATING INCOME (LOSS) | | |
| LESS CAPITAL EXPENDITURES | \$_____ | \$_____ |

COMMENTS

Public Comment

Section C, Economic Feasibility, Item 5 (Projected Data)-One commenter wrote that by asking for a third year you will get even less reliable data as the chances of meeting those targets are about impossible. There appears to be no relevance to this request.

Another commenter wrote: The conditions under which a separate Chart C will be requested should be spelled out. For example, if cash flow in the three years requested is negative, a Chart C for the institution will be required to demonstrate that overall financial capacity of the institution can offset startup losses.

Another commenter wrote: Again, the request for 3 years of history and 3 years of anticipated revenue and expenses appears more burdensome than valuable. While most existing facilities will have 3 year history available, the reporting of such old information is questionable. As projections are simply that

—
projections – the addition of a 3rd year of “guessimates” doesn’t appear to give the reviewer valuable information. Also, I suggest additional instructions that if the proposal has a negative cash flow, provide a Chart C for the entire facility. It may be that if a large hospital requests the addition of a relatively minor feature which will not have a positive cash flow, the service requested might be so valuable to patients that the hospital is willing to provide the service due to the financial viability of the hospital as a whole coupled with the need for the service by its patients.

Other commenters suggested adding a Chart C for the total facility as a standard question or adding a Chart C for total facility when the Chart C for the project is forecasting an operating loss.

Staff Recommendation

Section C, Economic Feasibility, Item 5 (Projected Data)-Staff believes that three years of historical data are necessary to be consistent with utilization data. Projected data request has been changed back to two years. Regarding the request to add a second Projected Data Chart for total facility, staff sees limited scenarios for projected data for a total facility so that there need not be a standard question. This information can be obtained in supplemental information on an as needed basis.

DRAFT

7. Please provide the current and proposed charge schedules for the proposal. Discuss any adjustment to current charges that will result from the implementation of the proposal. Additionally, describe the anticipated revenue from the proposed project and the impact on existing patient charges.
8. Discuss how projected utilization rates will be sufficient to maintain cost-effectiveness.
9. Discuss how financial viability will be ensured within two years; and demonstrate the availability of sufficient cash flow until financial viability is achieved.
10. Discuss the project's participation in state and federal revenue programs including a description of the extent to which Medicare, TennCare/Medicaid, and medically indigent patients will be served by the project. In addition, report the estimated dollar amount of revenue and percentage of total project revenue anticipated from each of TennCare, Medicare, or other state and federal sources for the proposal's first year of operation.
11. Compare the proposed charges to those of similar facilities in the service area/adjoining service areas, or to proposed charges of projects recently approved by the Health Services and Development Agency. If applicable, compare the proposed charges of the project to the current Medicare allowable fee schedule by common procedure terminology (CPT) code(s).
12. Provide copies of the balance sheet and income statement from the most recent reporting period of the institution and the most recent audited financial statements with accompanying notes, if applicable. For new projects, provide financial information for the corporation, partnership, or principal parties involved with the project. Copies must be inserted at the end of the application, in the correct alpha-numeric order and labeled as Attachment C, Economic Feasibility-12.
13. Describe all alternatives to this project which were considered and discuss the advantages and disadvantages of each alternative including but not limited to:
 - a. A discussion regarding the availability of less costly, more effective, and/or more efficient alternative methods of providing the benefits intended by the proposal. If development of such alternatives is not practicable, the applicant should justify why not; including reasons as to why they were rejected.
 - b. The applicant should document that consideration has been given to alternatives to new construction, e.g., modernization or sharing arrangements. It should be documented that superior alternatives have been implemented to the maximum extent practicable.

(III.) CONTRIBUTION TO THE ORDERLY DEVELOPMENT OF HEALTH CARE

1. List all existing health care providers (e.g., hospitals, nursing homes, home care organizations, etc.), managed care organizations, alliances, and/or networks with which the applicant currently has or plans to have contractual and/or working relationships, e.g., transfer agreements, contractual agreements for health services.
2. Describe the positive and/or negative effects of the proposal on the health care system. Please be sure to discuss any instances of duplication or competition arising from your proposal including a description of the effect the proposal will have on the utilization rates of existing providers in the service area of the project.

COMMENTS

Public Comment

Section C, Economic Feasibility, Item 6 -One commenter wrote that it would seem to me you will get an answer that is made to order every time, we will lower the cost of healthcare in this market and therefore overall charges will come down to meet this market challenge or it will be neutral, seems to ask for statements of the obvious.

Another commenter wrote: It seems that item 6 and 10 are addressing similar issues and could be combined. Both gross and net operating revenue are clearly identified in Chart C and would have included assumptions regarding charges. Even if the project impacts charges, it may be unlikely that increased revenues will result since most reimbursement is discounted from actual charges.

Another commenter wrote: This request is very similar to item II.10. Could they be combined?

Staff Recommendation

Section C, Economic Feasibility, Item 6 –Items 6 and 10 are now combined

Public Comment

Section C, Economic Feasibility, Item 7 - One commenter wrote that applicants should not be required to additionally discuss how projected utilization rates would be sufficient to maintain cost effectiveness, as such information already is provided in Chart C itself. Again the answer will be made to order as Chart C will show the utilization is sufficient and to attempt to assess market forces into the future is not reasonable.

Staff Recommendation

Section C, Economic Feasibility, Item 7-Staff recommends that no changes be made.

Public Comment

Section C, Economic Feasibility, Item 8- One commenter wrote that is financial viability within two years a documented guideline or requirement for CON?

Another commenter wrote: Some clarification may be necessary related to “financial viability”. Cash flow sufficient to maintain the project over time or cash flow sufficient to maintain the project until break even is achieved may be what is intended. Once again, the institution may be able to sustain a project that shows an operating loss over a substantial period of time.

Another commenter wrote: This requests 2 year information, and you are requesting 3 year information elsewhere. While I think 2 years is enough on any question, I also believe the application should be consistent.

Another commenter questioned the validity of asking for three years of data when this guideline asks for financial viability being ensured within two years.

Staff Recommendation

Section C, Economic Feasibility, Item 8-Projected data has been changed back to two years.

Public Comment

DRAFT

Section C, Economic Feasibility, 9- One commenter wrote: The words “each of” should be added before TennCare to make it clear that the revenues should be disaggregated into categories of payment.

Another commenter wrote: This request appears to request aggregate information, while I believe reviewers have traditionally requested individual payor information.

Another commenter wrote: Project participation in state and federal revenue programs. Can this question be answered by the responses given in the required financial Charts?

One commenter suggested adding the wording “each of the following categories” before “TennCare”.

Another commenter asked if this Item could be combined with Item C.I.7

Staff Recommendation

Section C, Economic Feasibility, Item 9-Staff concurs with these comments and recommends making these changes.

Public Comment

Section C, Economic Feasibility, Item 10-One commenter wrote: Proposed Charges, this question appears to be appropriately answered in response to the required financial Charts.

One commenter asked if this item could be combined with Item C.II.6. Many commenters discussed charges versus revenue vs. reimbursement and questioned which financial data was actually of value and needed.

Staff Recommendation

Section C, Economic Feasibility, Item 10-Staff concurs with combining this item with C., Economic Feasibility, Item 6.

Public Comment

Section C, Economic Feasibility, Item 11- One commenter wrote that applicants should not be required to compare proposed charges to those of similar facilities in the service area as this information is not readily available and not relevant to what healthcare costs in the market really are. Third party payers determine this not a fee schedule. Top 5 or 10 fees should be sufficient to understand where the pricing is in relation to Medicare allowable.

One commenter wrote: This section should be deleted. Comparison of charges is relatively meaningless given the current reimbursement mechanisms which pay discounted amounts. Staff should be able to obtain the Medicare allowable fee schedule and determine whether the charge assumptions behind the revenue expressed in Chart C are out of line. If so, clarification could be requested.

Another commenter wrote: Requesting anticipated patient charges appears to result in questionable information. Please consider requesting anticipated revenue.

Another commenter asked to what level of detail that charges by CPT Code are being requested, e.g., a hospital project impacting multiple departments.

Staff Recommendation

DRAFT

Section C, Economic Feasibility, Item 11-Staff recommends that no changes be made.

Public Comment

Section C, Economic Feasibility, Item 12- One commenter wrote that don't assume all financials will be audited, should state, if available.

Another commenter wrote: Remove the last sentence in accord with the appendix approach described earlier.

Another commenter wrote: Not all applicants will have audited financial statements. I suggest inserting the words, "if available" or words to that extent.

Another commenter wrote: Audited Financial Statements. While large parent companies often have audited financial statements, often subsidiaries of the parent do not. A requirement for audited statements is a very costly and time consuming one. Are consolidated financial statements for the parent along with unaudited for the applicant acceptable?

General comment was made regarding best way to include attachments. Discussion and comments by Agency members present resulted in a recommendation to have all attachments at the back of the application with cover sheets referencing the Item number.

Staff Recommendation

Section C, Economic Feasibility, Item 12-Staff concurs regarding if available comment and organization of attachments.

Public Comment

Section C, Economic Feasibility, Item 13- One commenter wrote that does this not come out in Chart C anyway? Why is the least costly best for patients and providers? Again, don't assume the cost will drive the revenue earned, it may drive the revenue need but it won't influence reimbursement rates to it

Another commenter wrote: (Item 13.a.) Some of the wording is problematic, such as providing "logical reasons" as to why certain alternatives might have been discarded. What is logical to the applicant may well not appear logical to the staff reviewer. I would hate to see a situation whereby a project doesn't enter the review cycle simply because the staff doesn't see the logic as to why an applicant did or did not consider some alternative. (Item 13.b.) Again, some of the wording is problematic, such as \documenting that "superior alternatives have been implemented to the extent practicable." Again, what

is a superior alternative to the applicant may not appear to the staff reviewer to be the superior alternative. As such, applicants could find themselves in a situation where the application question has been answered as good as it can be answered, but the project may not enter the review cycle simply because the reviewer doesn't approve of the answer.

Staff Recommendation

Section C, Economic Feasibility, Item 13-This information does not come out in Projected Data Chart. In completeness review, staff does not judge whether alternative is or is not logical. Requirements for completeness include statement of the alternative and rationale for discarding it or implementing it. Staff recommends that no changes be made to this item.

Public Comment

Section C, Orderly Development, Item 1- One commenter wrote: Combine with Section A, Item 14

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and provide a break out of the contract categories needed.

Another commenter wrote: Could this be combined in question A.14?

One commenter requested that this item be combined with Item 14 in Section A.

An Agency member asked that a question be developed specific to transfer agreements only.

Staff Recommendation

Section C, Orderly Development, Item 1-Staff agrees that this item should be combined with Section A, Item 14 and is reflected above.

Public Comment

Section C, Orderly Development, Item 2- One commenter wrote that it is virtually impossible to predict the effect a proposal will have on an existing provider. Market forces will effect this over time.

Staff Recommendation

Section C, Orderly Development, Item 2-Staff believes that there is enough data available to at least make an initial assessment of how the proposed project will impact existing similar services. Staff recommends that no changes be made to this item.

3. Provide the current and/or anticipated staffing pattern for all employees providing patient care for the project. This can be reported using FTEs for these positions. Additionally, please compare the clinical staff salaries in the proposal to prevailing wage patterns in the service area as published by the Tennessee Department of Labor & Workforce Development and/or other documented sources.
4. Discuss the availability of and accessibility to human resources required by the proposal, including adequate professional staff, as per the Department of Health, the Department of Mental Health and Developmental Disabilities, and/or the Division of Mental Retardation Services licensing requirements.
5. Verify that the applicant has reviewed and understands all licensing certification as required by the State of Tennessee for medical/clinical staff. These include, without limitation, regulations concerning physician supervision, credentialing, admission privileges, quality assurance policies and programs, utilization review *policies and programs, record keeping, and staff education*.
6. Discuss your health care institution's participation in the training of students in the areas of medicine, nursing, social work, etc. (e.g., internships, residencies, etc.).
7. ~~Describe the quality of the proposed project in relation to applicable government or professional standards.~~
8. (a.) Please verify, as applicable, that the applicant has reviewed and understands the licensure requirements of the Department of Health, the Department of Mental Health and Developmental Disabilities, the Division of Mental Retardation Services, and/or any applicable Medicare requirements.

(b.) Provide the name of the entity from which the applicant has received or will receive licensure, certification, and/or accreditation.

Licensure:

Accreditation:

If an existing institution, please describe the current standing with any licensing, certifying, or accrediting agency. Provide a copy of the current license of the facility.

- (c.) For existing licensed providers, document that all deficiencies (if any) cited in the last licensure certification and inspection have been addressed through an approved plan of correction. Please include a copy of the most recent licensure/certification inspection with an approved plan of correction.
9. Document and explain any final orders or judgments entered in any state or country by a licensing agency or court against professional licenses held by the applicant or any entities or persons with more than a 5% ownership interest in the applicant. Such information is to be provided for licenses regardless of whether such license is currently held.

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10. Identify and explain any final civil or criminal judgments for fraud or theft against any person or entity with more than a 5% ownership interest in the project
11. If the proposal is approved, please discuss whether the applicant will provide the Tennessee Health Services and Development Agency and/or the reviewing agency information concerning the number of patients treated, the number and type of procedures performed, and other data as required.

COMMENTS

Public Comment

Section C, Orderly Development, Item 3-One commenter wrote recommending changing the wording “at the facility” with “for the project”

Another commenter wrote: Could this be combined in question III.6?

Another commenter asked that the language in the question be modified so that it is clear that the staffing pattern for only clinical employees is required.

Staff Recommendation

Section C, Orderly Development, Item 3-Staff concurs. The requested changes are reflected in the draft document.

Public Comment

Section C, Orderly Development, Item 4- One commenter wrote that applicants should not be required to discuss the availability of and accessibility to human resources required by the proposal, as such information cannot be known until applicants begin recruiting for specific positions. Such recruitment cannot begin until the CON has been approved.

Staff Recommendation

Section C, Orderly Development, Item 4.-Staff disagrees. Some assessment of staff availability should be done during the process and is a key component of orderly development. Staff recommends that no changes be made to this item.

Public Comment

Section C, Orderly Development, Item 5. - One commenter wrote all you will get is a yes, can't be done until after CON approval so why ask? State requirements for qualified personnel are already in place.

Another commenter wrote: Document that licensing certification shall be met. Instead of document, it appears that an explanation of how licensing and certification would be met would be more appropriate.

Another commenter suggested that the word “Document” be replaced with “Explain” or “Verify”.

Another commenter suggested that the second sentence in Item C.III.9 be moved to this item and that the first part of Item C.III.9. be deleted.

Staff Recommendation

Section C, Orderly Development, Item 5. - Staff concurs with comments regarding use of the word “Verify” and the comment of moving the second sentence in Item C.III.9 to this item. The first part of Item C.III.9. cannot be deleted because it is directly from the general criteria in the Guidelines for Growth.

Public Comment

Section C, Orderly Development, Item 6- One commenter wrote comparing wage rates seems to have little merit on the need for the project.

DRAFT

Another commenter wrote: Combine with #3 related to FTEs and add “if available” since not all facilities participate in area wide compensation surveying.

Another commenter wrote: It is illegal to obtain prevailing wage patterns, as it might constitute an Anti-trust violation. I suggest allowing the applicants to simply state what the planned wage amounts will be, and not attempt to compare such amounts to what other providers in the area may be paying.

Other commenters asked if this item could be combined with Item C.III.3.

Commenters also questioned accessibility and validity of wage pattern data.

Staff Recommendation

Section C, Orderly Development, Item 6-Staff concurs with combining this item with Item C.III.3.

Wage pattern data is readily available from the State Department of Labor. Additionally, documentation of paying reasonable wages is key to orderly development. Staff recommends that this item not be changed specific to requesting a comparison to prevailing wage patterns in the service area.

Public Comment

Section C, Orderly Development, Item 8. - One commenter wrote that you will get boilerplate answers, such as consistent with the high standards of JCAHO and they will be the same every time, why ask it then?

Another commenter wrote: Consider deleting since the meaning is unclear. If not deleted, then consider “Describe how the proposed project will meet applicable government or professional standards.”

Another commenter wrote: Government or professional standards and quality. What measure is being requested to describe quality?

Other commenters were unclear as to what the item was asking.

Staff Recommendation

Section C, Orderly Development, Item 8.-Staff concurs. This item has been removed from this draft document.

Public Comment

Section C, Orderly Development, Item 9- One commenter wrote that same as issue 8 above, the answer will be yes and they won’t be licensed if they don’t do it anyway. Seems like a paper waste.

Another commenter wrote: Use this section to address concerns related to quality issues such as those expressed in the second sentence. The first sentence can be deleted since it is essentially covered in item

10 related to Licensure and other deficiencies.

Another commenter wrote: I suggest the word “verify” in lieu of “document” in this request. It is impossible to document such a statement as is contained in this item.

Staff Recommendation

Section C, Orderly Development, Item 9-This item is from the general criteria in the Guidelines for Growth so it needs to be included. The draft document now combines this item with Items 10 & 12.

Public Comment

Section C, Orderly Development, Item 10- One commenter wrote that applicants should not be required to document all deficiencies cited in the last licensure certification and inspection have been addressed through an approved plan of correction, such matters are already known and addressed by the DOH. Why not just ask if there are outstanding deficiencies and whether they have ever not been addressed in a fashion acceptable to the DOH?

Another commenter wrote: The first bolded sentence under item #12 should be moved to this section since it is duplicative

Another commenter wrote: Could this be combined with the bold letter request following item 12 on his page?

Staff Recommendation

Section C, Orderly Development, Item 10- Requesting a copy of the licensure survey and plan of correction assures documentation of deficiencies. Staff recommends that this item be approved as written.

Public Comment

Section C, Orderly Development, Item 11- One commenter wrote fail to see the relevance here? An application should stand on its own merits regardless of the ownership so long as it conforms to the proper regulatory requirements. If it doesn't other regulatory agencies or bodies will address as required.

Another commenter wrote: The scope of this item needs to be altered to include the notion that persons involved in a project should not have a history of professional license violations.

Another commenter wrote: A list of "all regulatory actions" would be inadmissible in a court of law. Convictions and judgments are admissible, however. Also, the amount of ownership is more important than the fact someone has an ownership interest. I suggest limiting such requests to people with a controlling interest, or people with 1/3 interest, 1/2 interest, 20% interest, etc.

Another commenter wrote: Document & explain regulatory actions taken in any state or country against licenses held by applicant, entities or persons with ownership? What licenses, timeframe and what definition of regulatory action is being requested?

One commenter requested that ownership interest be limited to at least 5% interest or majority interest. One commenter asked that regulatory action be better defined, e.g., convictions, charges.

One commenter noted that professional licenses are not usually held by the applicant but professionals associated with the applicant.

Staff Recommendation

Section C, Orderly Development, Item 11- Agency Members should be aware of an applicant's potential deficiencies through historical judgments regarding fraud and/or theft. Agency legal staff has considered the comments provide and changed the applicable language in this item and created a new Item 12. Agency members

Public Comment

DRAFT

Section C, Orderly Development, Item 12-One commenter asked if this item could be combined with Item C.III.10.

Staff Recommendation

Section C, Orderly Development, Item 12-Staff concurs. Applicable changes have been made to this draft document.

Public Comment

Section C, Orderly Development, Item 13- One commenter wrote that this is far too vague and should state a purpose for requesting such data. State regulations require such information in other formats and additionally there are state laws to seek data from providers. The state should coordinate such efforts to common database consistent with Federal guidelines and information can be made available to public entities with a need to know from there. What is most concerning is the statement “and other data as required”. What happens to those who don’t conform? If nothing then those who do share potentially confidential information while trying to do the right thing and could find that information harmful to their business.

Staff Recommendation

Section C, Orderly Development, Item 13-This item is a general criterion from the Guidelines for Growth so it has to be addressed in some fashion.

AFFIDAVIT

STATE OF _____

COUNTY OF _____

_____, being first duly sworn, says that he/she is the applicant named in this application or his/her/its lawful agent, that this project will be completed in accordance with the application, that the applicant has read the directions to this application, the Rules of the Health Services and Development Agency, and T.C.A. § 68-11-1601, *et seq.*, and that the responses to this application or any other questions deemed appropriate by the Health Services and Development Agency are true and complete.

SIGNATURE/TITLE

Sworn to and subscribed before me this _____ day of _____, _____ a notary
(Month) (Year)

Public in and for the County/State of _____.

NOTARY PUBLIC

My commission expires _____, _____.
(Month/Day) (Year)

COMMENTS

Public Comment

Affidavit: One commenter wrote: I suggest the affidavit should be the last page of the application form, proper. As it is now placed, an applicant could give false information regarding the proof of publication and development schedule.

Staff Recommendation

Affidavit: Staff concurs and recommends implementation of the commenter' s suggested change.

PROOF OF PUBLICATION

Attach the full page of the newspaper in which the notice of intent appeared with the mast and dateline intact or submit a publication affidavit from the newspaper as proof of the publication of the letter of intent.

DEVELOPMENT SCHEDULE

Tennessee Code Annotated § 68-11-1609(c) provides that a Certificate of Need is valid for a period not to exceed three (3) years (for hospital projects) or two (2) years (for all other projects) from the date of its issuance and after such time shall expire; provided, that the Agency may, in granting the Certificate of Need, allow longer periods of validity for Certificates of Need for good cause shown. Subsequent to granting the Certificate of Need, the Agency may extend a Certificate of Need for a period upon application and good cause shown, accompanied by a non-refundable reasonable filing fee, as prescribed by rule. A Certificate of Need which has been extended shall expire at the end of the extended time period. The decision whether to grant such an extension is within the sole discretion of the Agency, and is not subject to review, reconsideration, or appeal.

1. Please complete the Project Completion Forecast Chart on the next page. If the project will be completed in multiple phases, please identify the anticipated completion date for each phase.
2. If the response to the preceding question *indicates that the applicant does not anticipate completing the project within the period of validity as defined in the preceding paragraph*, please state below any request for an extended schedule and document the “good cause” for such an extension.

Form HF0004
Revised ?/?/04

COMMENTSPublic Comment

Development Schedule: Once commenter wrote: Provide a timetable for development and completion of the project to include, at a minimum, the date of the site acquisition, date of architectural contract, architectural design schedule, date of closing for financing, date of valid construction contract, date that all necessary permits (grading, building, sewer, etc.) will be obtained, and date of start of construction. The timetable shall be presented in one month increments commencing with the month following receipt of the certificate of need and ending with the execution of a contract or purchase order for equipment only projects.

An alternative would be to have a table for applicants to fill out such as the one below.

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SCHEDULEAll ApplicantsPROJECT COMPLETION FORECAST

Page 1 of 1

Enter the Agency projected Initial Decision date, as published in Rule 68-11-1609(c):

Assuming the CON approval becomes the final agency action on that date, indicate the number of days from the above agency decision date to each phase of the completion forecast.

| <u>Phase</u> | <u>DAYS REQUIRED</u> | <u>Anticipated Date (MONTH/YEAR)</u> |
|---|-----------------------------|--|
| <u>1. Architectural and engineering contract signed</u> | <u> </u> | <u> </u> |
| <u>2. Construction documents approved by the Tennessee Department of Health</u> | <u> </u> | <u> </u> |
| <u>3. Construction contract signed</u> | <u> </u> | <u> </u> |
| <u>4. Building permit secured</u> | <u> </u> | <u> </u> |
| <u>5. Site preparation completed</u> | <u> </u> | <u> </u> |
| <u>6. Building construction commenced</u> | <u> </u> | <u> </u> |
| <u>7. Construction 40% complete</u> | <u> </u> | <u> </u> |
| <u>8. Construction 80% complete</u> | <u> </u> | <u> </u> |
| <u>9. Construction 100% complete (approved for occupancy)</u> | <u> </u> | <u> </u> |

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10. *Issuance of license

11. *Initiation of service

12. Final Architectural Certification of Payment

13. Final Project Report Form (HF0055)

***For projects that do NOT involve construction or renovation: Please complete items 10 and 11 only.**

Note: If litigation occurs, the completion forecast will be adjusted at the time of the final determination to reflect the actual issue date.

Staff Recommendation

Development Schedule: Staff concurs and recommends implementation of the commenter' s Project Completion Forecast chart.

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